

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)
)
 Eli A. Miller d/b/a)
 Hill Top Kennel,)
)
 Respondent.) COMPLAINT

16-0027

There is reason to believe that Eli A. Miller, doing business as Hill Top Kennel, hereinafter referred to as Respondent, has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), and the Regulations and Standards issued pursuant thereto (9 C.F.R. § 1.1 et seq.). The Administrator of the Animal and Plant Health Inspection Service (APHIS) therefore issues this complaint alleging the following:

I.

- A. Respondent is an individual who operates Hill Top Kennel at the address of 4385 Audrain Road 165, Clark, MO 65243.
- B. At all times mentioned herein, Respondent was licensed and operating as a Class A Dealer, as that term is defined in the Act and the Regulations.

II.

- A. On or about June 20, 2011, APHIS inspected respondent's facility and found that the respondent had failed to use appropriate methods to prevent, control, diagnose and treat diseases and injuries, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40(b)(2)).
- B. On or about June 20, 2011, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Failing to provide for regular and frequent removal and disposal of animal and food wastes as required, and in a manner that minimized pest infestation, insects, and disease hazards as evidenced by dried and liquid fecal and waste material harboring maggots in an outdoor wash-down below the primary enclosures (9 C.F.R. § 3.1(f));

2. Failing to sufficiently cool animal facilities as necessary to protect animals from temperature or humidity extremes as evidenced by puppies exhibiting signs of heat exhaustion and observed temperatures in sheltered facilities at 96.6 degrees Fahrenheit (9 C.F.R. § 3.3(a)); and

3. Failing to provide primary enclosures constructed in a manner that protected the puppies' feet and legs from injury (9 C.F.R. § 3.6(a)(2)(x)).

III.

A. On or about August 18, 2011, APHIS inspected respondent's facility and found that the respondent had failed to observe animals daily to assess their health and well-being and failed to maintain direct and frequent communication with his attending veterinarian by failing to report to the veterinarian a dog who was exhibiting signs of discomfort and who ate her litter of puppies (9 C.F.R. § 2.40(b)(3)).

B. On or about August 18, 2011, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Failing to provide primary enclosures constructed in a manner that protected the puppies' feet and legs from injury (9 C.F.R. § 3.6(a)(2)(x)).

IV.

A. On or about August 23, 2011, APHIS inspected respondent's facility and found the

following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Failing to provide primary enclosures constructed in a manner that protected the puppies' feet and legs from injury (9 C.F.R. § 3.6(a)(2)(x)).

V.

A. On or about May 22, 2012, APHIS inspected respondent's facility and found that the respondent had failed to use appropriate methods to prevent, control, diagnose and treat diseases and injuries, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40(b)(2)).

VI.

A. On or about August 1, 2012, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Respondent failed to sufficiently ventilate sheltered housing facilities for dogs as required (9 C.F.R. § 3.3(b)).

VII.

A. On or about August 12, 2013, APHIS inspected respondent's facility and found that the respondent had failed to properly identify all dogs held on the premises, in willful violation of section 2.50 of the regulations (9 C.F.R. § 2.50(a)(1)).

VIII.

A. On or about July 15, 2014, APHIS inspected respondent's facility and found that

the respondent had failed to use appropriate methods to prevent, control, diagnose and treat diseases and injuries, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On or about July 15, 2014, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Respondent failed to provide uncontaminated and wholesome food for dogs as required (9 C.F.R. § 3.9(a)).

IX.

A. On or about July 7, 2015, APHIS inspected respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Respondent failed to establish and maintain an effective program of pest control, resulting in an infestation of fleas on the animals (9 C.F.R. § 3.11(d)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the Respondent has in fact violated the Act and the Regulations issued under the Act, this complaint shall be served upon the Respondent. The Respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefore, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

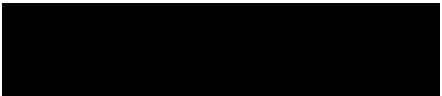
2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:

(a) Requiring the respondent to cease and desist from violation of the Act and the regulations and standards issued thereunder; and

(b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149).

(c) Suspending or revoking the respondent's license in accordance with section 19 of the Act (7 U.S.C. § 2149).

Done at Washington, D.C.
this 10th day of Dec., 2015


Administrator
Animal and Plant Health
Inspection Service

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